

REMARKS

Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request entry of the amendment and reconsideration of the claims in view of the remarks presented below.

Claims 21-37 are withdrawn from prosecution. Thus, claims 1-20, 38 and 39 are pending in the application.

Applicants note in the Office Action mailed 5/07/2009 that the Office Action "is in response to the Amendment filed 04/09/2008." In reviewing the file history on the PAIR System, Applicants' attorney noted that the pending Office Action is identical to an Office Action that was filed on 12/09/2008, a response to which was filed on 03/05/2009. It appears that Applicants responsive filing of 03/05/2009 has not been examined by the Examiner. Accordingly, Applicants are resubmitting its previous response dated 03/05/2009 for the Examiner's consideration. Applicants would like to point out to the Examiner, however, that minor changes have been made to the labeling of the status of the claims to properly indicate such status.

All amendments to claim 1 has been amended identically to the way it was amended in the 03/05/2009 response.

Applicants thank the Examiner for the indication that the Terminal Disclaimer filed 04/09/2008 has been made of record.

Claims 1-20, 38 and 39 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,499,987 to Feingold et al. Applicants respectfully traverse this rejection.

Applicants note that Feingold discloses an insertion device for inserting a lens into an eye which includes an enclosing member for receiving and holding the lens. However, the enclosing member disclosed in Figs. 37-41 of Feingold is very clearly shown to have only one hinge portion, contrary to the Examiner's statement in paragraph 2 of the pending Office Action.

Providing only one hinge portion in the enclosing member causes not only a peripheral edge portion of an optical portion of the lens, but also other portions (for example, a central portion of the optical portion) to be brought into contact with the hinge portion, of the enclosing member. In other words, Feingold only discloses a configuration in which the peripheral edge portion of the optical portion of the lens is engaged with the enclosing member and the portions of the optical portion other than the peripheral edge portion are also in contact with the enclosing member when the lens, before being deformed for insertion into the eye, is received in the enclosing member. (emphasis added).

In direct contrast, in the present invention as recited in amended claim 1, "only a peripheral edge portion of the optical portion of the deformable intraocular lens is engaged with said enclosing member and portions of the optical portion other than the peripheral edge portion are not in contact with said enclosing member when the deformable intraocular lens is received in the enclosing member prior to be deformed for insertion into the eye." This amendment is fully supported by Figs. 5-7 and 16a-18, (wherein the enclosing member has no hinge portion) and the related disclosure. Moreover, Fig. 23 of the specification clearly shows that when the enclosure of Feingold is folded, other portions of the lens besides just the peripheral portions are in contact with the enclosure, which is completely different from the invention claimed in amended claim 1.

In view of the above, Applicants submit that the presently claimed invention is novel and non-obvious over Feingold, and respectfully requests the Examiner to kindly reconsider and pass claim 1 to issue.

Claims 2-20, 38 and 39 depend directly or indirectly from claim 1, and Applicants submit that these claims are also novel and patentable over the art at least in view of their dependency on claim 1.

Regarding the prior art made of record by the Examiner but not relied upon, Applicants believe that this art does not render the pending claims unpatentable.

In view of the above, Applicants submit that the Application is now in condition for allowance and respectfully urge the Examiner to pass this case to issue.

CONCLUSION

Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request entry of the amendment and reconsideration of the claims in view of the remarks presented. In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Should the Examiner have any questions concerning the above amendments and arguments, or any suggestions for further amending the claims to obtain allowance, Applicants request that the Examiner contact Applicant's attorney, John Fitzgerald, at 310-242-2667.

The Commissioner is authorized to credit any overpayment or charge any additional fees in this matter to our Deposit Account No. 06-2425.

Respectfully submitted,

FULWIDER PATTON LLP

By: /john k. fitzgerald/
John K. Fitzgerald
Registration No. 38881

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201